

REMARKS

By this Amendment, Applicants cancel claim 44, without prejudice or disclaimer of the subject matter therein, amend claims 1-3, 5, 6, 15-17, 19, 26-28, 30, 31, 41, 43, 50, 52, and 53, and add new claim 56. Claims 1-43 and 45-56 are therefore pending in this application.

In the final Office Action of January 13, 2006 (Office Action),¹ claims 26-30 were rejected under 25 U.S.C. § 101 as being directed to non-statutory subject matter; and claims 1-55 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Application Publication No. 2003/0145104 (“*Boden*”). Applicants address the rejections, as well as the new claim, below.

Section 101 rejection of claims 26-30

The Examiner rejected claims 26-30 under § 101 as being directed to non-statutory subject matter. Applicants traverse the § 101 rejection for at least the following reasons.

In rejecting claims 26-30, the Examiner alleged that Applicants’ claims “appear to be nothing more than a collection of software means, *per se*, and are not tangibly embodied in a manner so as to be executable.” Office Action at p. 2. The Examiner alleged that Applicants’ specification supports this claim interpretation at paragraphs 062 and 063. *Id.* According to the Examiner, the specification “states that the various processes of the invention may be implemented as software or program code.” *Id.* The Examiner has not established a *prima facie* case of unpatenability, as discussed below.

The PTO’s *Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility* (“Interim Guidelines”) states on page 53:

Computer programs are often recited as part of a claim. USPTO personnel should determine whether the computer program is

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether or not any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence nonstatutory (emphasis added).

In this case, the Examiner has not established that claims 26-30 are directed to “a mere program listing.” Contrary to the Examiner’s position, the specification does not require that the elements of claims 26-30 “be implemented as software or program code.” Instead, the cited portion of the specification merely explains that the discloses processes “are not inherently related to any particular computer or apparatus, and may be implemented by a suitable combination of hardware, software, and/or firmware.” Specification, ¶ 062. The specification also states that the “present invention relates to computer-readable media that include program instruction[s] or program code for performing various computer-implemented operations based on the methods and processes of the invention.” Specification, ¶ 063. Furthermore, Applicants’ specification describes various hardware and other computer system components that may perform functions associated the features of claims 26-30 (*see, e.g.,* Figs. 1-5 and accompanying description).²

Regardless of whether claims 26-30 include software-related features, the Examiner has not established that these claims, taken in their entirety, are directed to “a mere program listing.” Indeed, Applicants submit that the claims 26-30 are not directed to descriptive material per se and instead are directed to statutory subject matter. Accordingly, Applicants request withdrawal of the § 101 rejection of claims 26-30.

² In referring to the specification above, Applicants do not intend to limit the scope of the claims to the exemplary embodiments shown in the drawings and described in the specification. Rather, Applicants expressly affirm the entitlement to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Section 102(e) rejection of claims 1-55

The § 102(e) rejection of claim 44 is rendered moot by the cancellation of that claim. Furthermore, Applicants request withdrawal of the § 102(e) rejection of claims 1-43 and 45-55 because *Boden* fails to anticipate these claims. In order to properly anticipate Applicants' claimed invention under § 102, a single prior art reference must disclose each and every element of the claim at issue, either expressly or under principles of inherency. Further, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” *See* M.P.E.P. § 2131. Also, “[t]he elements must be arranged as required by the claim.” *Id.*

With regard to independent claim 1, *Boden* fails to disclose at least “determining that the one or more packets are associated with the detected addressing conflict by determining that the removed virtual address corresponds to the identifier associated with the detected addressing conflict,” as claimed. *Boden* is directed to providing “[l]ocal gateway support for multiple overlapping remote networks . . . [in] those scenarios in which the remote VPN connection endpoint is not known.” Abstract, ¶ 0009. In *Boden*’s system, the local gateway allows VPN connection filters for outbound packets to overlap. *Boden*, ¶ 0056. Because of this allowed overlap, the “right connection for the packet” may be unclear. *Boden*, ¶ 0061. *Boden* describes a method for determining the right connection. In particular, *Boden* describes that inbound packets are decapsulated and then “checked to determine if VPN NAT . . . is necessary.” ¶ 0062. If NAT is required, a table look-up is performed to change the packet’s inbound source IP address. If an entry is not found, a new entry is created for the inbound packet. In *Boden*’s system, the appropriate connection for an outbound packet is identified by looking up a connection name that was associated with the inbound connection at the time that the inbound NAT was created. *Id.*

Although *Boden* describes determining if address translation is necessary, the reference fails to disclose “determining that the one or more packets are associated with the detected addressing conflict by determining that the removed virtual address corresponds to the identifier associated with the detected addressing conflict,” as claimed. Indeed, *Boden* is silent with regard to determining that a virtual address of a tunnel corresponds to an identifier associated with a detected addressing conflict. *Boden*’s method of identifying the appropriate connection for an outbound packet is to look up a connection name associated with the inbound connection at the time that the inbound NAT was created. *Id.* In *Boden*’s system, the connection will be found only if an inbound packet has been received for that connection, establishing the NAT and the association. In contrast, the method of claim 1 detects an addressing conflict “prior to receiving packets” and associates “an identifier with the detected addressing conflict.” The method of claim 1 “[determines] . . . that the one or more packets are associated with the detected addressing conflict by determining that the removed virtual address corresponds to the identifier associated with the detected addressing conflict” (emphasis added). In contrast to *Boden*’s method, the method of claim 1 does not require an initial inbound packet to establish a connection identifier and resolve conflicts; instead, a conflict identifier is defined before the connection is established.

For at least the foregoing reasons, *Boden* fails to disclose at least the address conflict “determining” feature of claim 1. Because *Boden* fails to teach each and every feature of claim 1, the rejection of that claim under 35 U.S.C. § 102(e) should be withdrawn. The § 102(e) rejection of dependent claims 2-14 should be withdrawn as well, since claims 2-14 and 36-43 depend upon claim 1 and are likewise distinguishable from *Boden*. Applicants thus request withdrawal of the § 102(e) rejection and the timely allowance of claims 1-14 and 36-43.

Independent claims 15 and 26, although different in scope from claim 1 and from each other, recite subject matter similar to the address conflict “determining” feature of claim 1 noted above. In particular, claim 15 recites, *inter alia*, code that “determines that the one or more packets are associated with the detected addressing conflict by determining that the removed virtual address corresponds to the identifier associated with the detected addressing conflict.” Claim 26 recites, *inter alia*, “means for determining that the one or more packets are associated with the detected addressing conflict by determining that the removed virtual address corresponds to the identifier associated with the detected addressing conflict.” Claims 15 and 26 are distinguishable from *Boden* for at least reasons similar to those presented above in connection with claim 1.

Each of claims 16-25, 27-30, and 45-53 depends (directly or indirectly) upon claim 15 or claim 26. Claims 16-25, 27-30, and 45-53 include all of the features of base claims 15 and 26, respectively, and are likewise distinguishable from *Boden*. Applicants thus request withdrawal of the § 102(e) rejection and the timely allowance of claims 15-30 and 45-53.

As to independent claim 31, *Boden* fails to disclose at least a processor that “detects a conflict between the first address and the second address prior to communication between the first processor and the second network and resolves the conflict based on address translation information retrieved using a virtual address of a tunnel established between the other processor and the first network,” as claimed (emphasis added). Indeed, although *Boden* mentions performing address translations, *Boden* does not disclose retrieving address translation information using a virtual address of a tunnel, as claimed. Further, as explained above in connection with claim 1, *Boden*’s method of identifying the appropriate connection for an outbound packet is to look up a connection name associated with the inbound connection at the

time that the inbound NAT was created. *Id.* In *Boden*'s system, the connection will be found only if an inbound packet has been received for that connection, establishing the NAT and the association. In contrast, the processor of claim 31 "detects a conflict between the first address and the second address prior to communication . . . and resolves the conflict based on address translation information retrieved using a virtual address of a tunnel."

For at least the foregoing reasons, *Boden* fails to disclose at least the "processor" recited in claim 31. Applicants again remind the Examiner that a rejection under § 102 is proper only when the claimed subject matter is identically described or disclosed in the prior art. *In re Arkley*, 455 F.2d 586, 587, 172 USPQ 524, 526 (CCPA 1972).

Because *Boden* fails to teach each and every feature of claim 31, the rejection of that claim under 35 U.S.C. § 102(e) should be withdrawn. The § 102(e) rejection of dependent claims 32-35, 54, and 55 should be withdrawn as well, since claims 32-35, 54, and 55 depend upon claim 31 and are likewise distinguishable from *Boden*. Applicants thus request withdrawal of the § 102(e) rejection and the timely allowance of claims 31-35, 54 and 55.

New claim 56

New claim 56 depends upon claim 1 is likewise distinguishable from *Boden*. In addition, the applied art fails to teach or suggest the additional features recited in new claim 56. That is, the applied art fails to teach or suggest at least "storing the translated address with the identifier associated with the detected addressing conflict" and "retrieving, based on the identifier, information indicating the translated address," as claimed. Applicants thus request the timely allowance of new claim 56.

Conclusion

Applicants request the Examiner's reconsideration of the application in view of the foregoing and the timely allowance of pending claims 1-43 and 45-56.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: April 13, 2006

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